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5
6 UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
7
8
9

10 FREIDA LAUB,

11 Plaintiff,

12 vs.

13 RETRIEVAL-MASTERS CREDITORS
BUREAU, INC., a foreign corporation
14 doing business as AMERICAN
MEDICAL COLLECTION AGENCY,

15 Defendant.)

No. CV-S-

16 COMPLAINT

17 JURISDICTION

18 1. The jurisdiction of this Court attains pursuant to the FDCPA, 15 U.S.C.
19 § 1692k(d), 28 U.S.C. § 1331, 28 U.S.C. § 1332, and the doctrine of supplemental
20 jurisdiction. Venue lies in the Southern Division of the Judicial District of Nevada as
21 Plaintiff's claims arose from acts of the Defendant(s) perpetrated therein.
22

23 PRELIMINARY STATEMENT

24 2. This action is instituted in accordance with and to remedy Defendant's
violations of the Federal Fair Debt Collection Practices Act, 15 U.S.C § 1692 et seq.
25 (hereinafter "FDCPA"), and of related state law obligations brought as supplemental
26 claims hereto.

27 ///

28

3. In 2009, Defendant initiated a campaign of abusive, unfair, unreasonable, and unlawful debt collection activity directed against Plaintiff in Las Vegas, Nevada.

4. As a result of these and other violations of law, Plaintiff seeks hereby to recover actual and statutory damages together with reasonable attorney's fees and costs.

PARTIES

5. Plaintiff, Freida Laub, is a natural person who resides in Las Vegas, Nevada, and is a "consumer" as defined by 15 U.S.C. Section 1692a(3) and allegedly owes a "debt" as defined by 15 U.S.C. Section 1692a(5).

6. Defendant, Retrieval-Masters Creditors Bureau, Inc., dba American Medical Collection Agency, is a foreign corporation, the principal purpose of whose business is the collection of debts, operating a debt collection agency from its principal place of business in Elmsford, New York, and regularly collects or attempts to collect debts owed or due or asserted to be owed or due another, and is a "debt collector" as defined by 15 U.S.C. Section 1692a(6).

FACTUAL ALLEGATIONS

7. Plaintiff(s) repeat, reallege and assert all factual allegations contained in the preliminary statement to this Complaint and reassert them as incorporated in full herein.

8. Plaintiff suffers from Degenerative Multiple Sclerosis.

9. This disease has severely impacted Plaintiff's life.

10. Plaintiff can only work on a limited basis and consequently earns a limited income.

11. On March 9, 2009, Plaintiff was dunned by Defendant (Exhibit 1.)

12. The alleged debt underlying this action was for medical tests.

13. Plaintiff called Defendant during early April, 2009, offering to pay the entire \$46.16.

14. Plaintiff provided her credit card information.

15. Defendant's collector then advised there would be a surcharge for any credit card payment.

1 16. Plaintiff advised the collector she could not afford the surcharge and the
2 collector ostensibly agreed.

3 17. Plaintiff advised she would quickly send Defendant a check for the entire
4 amount.

5 18. Plaintiff instructed Defendant not to charge her card and the collector
6 ostensibly agreed.

7 19. On April 10, 2009, Defendant negotiated Plaintiff's check (Exhibit 2.)

8 20. During late April Plaintiff received her credit card statement.

9 21. Defendant had charged the \$46.16 *three* times (Exhibit 3.)

10 22. The three charges were intentionally and fraudulently made contrary to
11 Plaintiff's specific instruction.

12 23. The three charges were intentionally and fraudulently made
13 notwithstanding Plaintiff's full payment by check.

14 24. Defendant's intentional fraud was in violation of both FDCPA
15 §§ 1692e(2)(A) and (10) and FDCPA § 1692f. Kimber v. Federal Financial Corp., 668
16 F. Supp. 1480, 1487-89 (M.D. Ala. 1987).

17 25. The foregoing acts and omissions of Defendant were undertaken by it
18 willfully, maliciously, and intentionally, knowingly, and/or in gross or reckless disregard
19 of the rights of Plaintiff.

20 26. The foregoing acts and omissions of Defendant were undertaken by it
21 willfully, maliciously, and intentionally, knowingly, and/or in gross or reckless disregard
22 of the rights of Plaintiff.

23 27. Indeed, the foregoing acts and omissions of Defendant were undertaken
24 by it indiscriminately and persistently, as part of its regular and routine debt collection
25 efforts, and without regard to or consideration of the identity or rights of Plaintiff.

26 28. As a proximate result of the foregoing acts and omissions of Defendant,
27 Plaintiff has suffered actual damages and injury, including, but not limited to, stress,
28 humiliation, mental anguish and suffering, and emotional distress, for which Plaintiff
should be compensated in an amount to be proven at trial.

CAUSES OF ACTION

COUNT I

29. The foregoing acts and omissions of Defendant constitute violations of the FDCPA, including, but not limited to, Sections 1692c, d, e and f.

30. Plaintiff is entitled to recover statutory damages, actual damages, reasonable attorney's fees, and costs.

COUNT II

31. The foregoing acts and omissions constitute unreasonable debt collection practices in violation of the doctrine of Invasion of Privacy. *Kuhn v. Account Control Technology, Inc.*, 865 F. Supp. 1443, 1448-49 (D. Nev. 1994); *Pittman v. J. J. Mac Intyre Co. of Nevada, Inc.*, 969 F. Supp. 609, 613-14 (D. of Nev. 1997).

32. Plaintiff is entitled to recover actual damages as well as punitive damages in an amount to be proven at trial.

JURY DEMANDED

Plaintiff hereby demands trial by a six-person jury on all issues so triable.

WHEREFORE, Plaintiff prays that this Honorable Court grant the following relief:

1. Award actual damages.
2. Award punitive damages.
3. Award statutory damages of \$1,000 pursuant to 15 U.S.C. § 1692k.
4. Award reasonable attorney fees.
5. Award costs.
6. Grant such other and further relief as it deems just and proper.

Respectfully submitted,


MITCHELL D. GLINER, ESQ.
Nevada Bar #003419
3017 West Charleston Boulevard
Suite 95
Las Vegas, NV 89102
Attorney for Plaintiff

FROM :

FAX NO. : 871 3809

May. 08 2009 03:30PM P1



AMERICAN MEDICAL COLLECTION AGENCY

2269 S. SAW MILL RIVER ROAD, BLDG. 3 • ELMSFORD, NY 10523

PIN NUMBER: 97838991991

02 L2Q VAP A32604955

1-800-365-3638

1-914-345-7125



Freida Laub

6043 Journeys End St.

Las Vegas, NV 89148-5524

March 9, 2009

SERIOUSLY PAST DUE

Dear Freida Laub:

You have not responded to our previous notice.

914-345-0746

We must assume that you do not dispute the debt in question and your account has been classified as a valid and undisputed debt and subject to collection in full.

For your reference, the \$46.16 you owe is for laboratory tests ordered by your physician and performed by our client. These charges were not included in any bills you received from your doctor or hospital.

Your deadline for payment in full is 03/23/09.

If we do not receive payment by the above date, we will pursue collections. We urge you to take care of this matter promptly. You may call us at the telephone number above if you have any questions. Otherwise, please mail your payment today with the bottom portion of this letter.

pay.amcaonline.com

**NOTICE: SEE REVERSE SIDE
FOR IMPORTANT INFORMATION**

Sincerely,

Joseph Howard

Collection Supervisor



ACA
INTERNATIONAL
The American Medical Collection Agency
and its associated agencies



AMCA

PO BOX 1235

ELMSFORD, NY 10523-0935



042927



090307

Service
ProviderAmount
DueDate of
Service

Invoice #

Associated Pathologist Charter

\$46.16

September 18, 2008

119

A32604955

VAP04616A32604955+++++b

EXHIBIT /

DETACH HERE

DETACH HERE

FREIDA H. LAUB
6043 JOURNEYS END ST.
LAS VEGAS, NV 89148
PH. 871-3809

2780

Date 4/8/09

94-72/1224 NV
7802

AMCA

Pay to the
Order of

Forty nine dollars 16/100

\$ 46.16

Dollars



Bank of America
Bank of America
Bank of America

Bank of America



Bank of America Advantage[®]

ACH RT 122400724

for 97838991991 VAP

43760455-

1224007241

Freida H. Laub

EXHIBIT 2

FOR DEPOSIT ONLY
VIRGINIA
UNIVERSITY OF

700003873051
① 312667394
MAGNOLIA WA 980751 19647
PHILA. PA 04132069 11PK

0123 VAP ANATOMICA PATHOLOG 68 1235 A32604955+++++

IN 1871, I was

FROM :

Bank of America | Online Banking | Accounts | Account Details | Account Activity

5/1/09 4:04 PM

9783899/99/
Freida Lamb

Sign Off

New e-Bills | Locations | Mail | Help | En Español

Enter keyword(s)

Account Details

Bank of America Gold Visa - 3262

Account: Bank of America Gold Visa - 3262

Consolidate your
bills.
Transfer balances
from other credit
cards.

Account Activity

My Statements

Services

The free and easy way to protect yourself when you shop online.

ShopSafe is our free service for Online Banking customers that allows you to create a unique, temporary account number for online purchases.

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Balance Summary
05/01/2009

Current Balance

Available credit

Temporary

Authorization

(rounded) 2

Request a credit limit

increase

05/09/2009

Payment due date

Current payment

due

\$0.00

Past due amount

Total minimum

payment due

Pay now

Balance as of your

last statement

Credit Limit

Amount over the

limit

Payment Summary

Turn a good deal
into a great deal
when you shop
online using the Add
It Up™ program.

Learn more

Go to: April 14, 2009

View: All Transactions

Newest | Next | Previous | Older

Transaction

Newable

Download

Posted +

Transaction

Type

Amount

Balance

04/14/2009

Finance Charge

-

-

-

04/08/2009

AMCARMOR - 0501227385

-

\$46.18

-

04/08/2009

AMCARMOR - 0501227470

-

\$46.18

-

04/08/2009

AMCARMOR - 0501227757

-

\$46.18

-

04/06/2009

-

-

-\$300.00

-

04/03/2009

-

-

-\$119.97

-

04/02/2009

-

-

\$7.64

-

03/30/2009

-

-

\$11.00

-

03/26/2009

-

-

\$35.00

-

03/25/2009

-

-

\$277.82

-

Icon Legend

Printable

Download

Go to: April 14, 2009

View: All Transactions

Newest | Next | Previous | Older

paid by check % charged 3x's

Secure Area

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